

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

APRIL LICATA

Claimant

VS.

PIONEER BALLOON CO.

Respondent

AND

WAUSAU UNDERWRITERS INS. CO.

Insurance Carrier

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Docket No. 231,194

ORDER

Claimant appealed the preliminary hearing Order dated March 31, 1998, entered by Administrative Law Judge Jon L. Frobish.

ISSUES

Finding that claimant failed to prove she sustained an accidental injury arising out of and in the course of her employment with respondent, the Administrative Law Judge denied the request for benefits. That is the only issue before the Appeals Board on this appeal.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

For preliminary hearing purposes, the Appeals Board finds as follows:

The preliminary hearing Order should be affirmed.

Claimant has a history of scoliosis and urinary tract infections. As recently as February 1997, claimant sought medical treatment with her family physician for back pain due to lifting her young children. In this proceeding, claimant alleges she injured or aggravated her back at work on or about January 20, 1998, and that her pain worsened over the next several days eventually requiring her to seek treatment at a hospital emergency room on January 24, 1998.

Although it is true claimant experienced back pain during the period in question, the real issue is whether that symptom was caused by the alleged injury at work or something else.

As indicated by the medical records presented, claimant's complaints are compatible with both low back strain and pelvic inflammatory disease. In his letter to claimant's counsel dated February 25, 1998, Dr. Phillip S. Olsen writes:

This patients [*sic*] problem is a mixed one in that she has complaints compatible with low back strain but also has signs and symptoms suggestive of pelvic inflammatory disease. It is very difficult to determine which entity is causing the majority of her symptomatology as pelvic inflammatory disease can cause low back pain as well. It is my view that the emergency room visit was predominantly caused by her lower abdominal pain.

In light of the medical evidence presented to date, the Administrative Law Judge found that claimant failed to prove that she sustained a work-related injury. The Appeals Board agrees with that conclusion and finds no reason at this time to disturb the Judge's Order.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated March 31, 1998, entered by Administrative Law Judge Jon L. Frobish is affirmed.

IT IS SO ORDERED.

Dated this ____ day of May 1998.

BOARD MEMBER

c: Randy S. Stalcup, Wichita, KS
David L. Vogel, Wichita, KS
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Director